**Amendments to the Claims:**

Please amend claims 5, 14-16, 34-36, 40 and 46 as indicated in the listing of claims.

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1-4 (Canceled)

5. (Currently amended) An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a spacer rotatably mounted on the shaft that is adapted to fit between spinous processes, the spacer including a first portion and a second portion ~~pivotably connected at a hinge~~; and

a threaded screw rotatably mounted on the shaft between the first portion and second portion ~~in a plane with the hinge~~; and

an actuatable spreading device rotatably mounted on the threaded screw to adjust the height of the spacer in order to adjust the spacing between the spinous processes.

6. (Previously presented) The implant of claim 5 wherein the actuatable spreading device is a slotted sphere that engages the first and second portion of the spacer to maintain the profile height.

7. (Previously presented) The implant of claim 6 wherein the slotted sphere engages a screw extending from between first and second portion of the spacer to maintain the profile height.

8-13. (Canceled)

14. (Currently amended) An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a spacer rotatably ~~pivotally~~ mounted on the shaft, the spacer including a first portion and a second portion; and

a mechanism positioned between the first portion and the second portion that can adjust a space between the first and second portion,~~; and~~ wherein the mechanism of the implant further comprises a threaded screw ~~arranged generally perpendicular to the shaft and~~ rotatably mounted on the shaft, and

an actuatable spreading device engaging threads of the threaded screw, wherein the actuatable spreading device further comprises a slotted sphere.

15. (Currently amended) The implant of claim 14 wherein the slotted sphere ~~spreading device~~ engages the first and second portion of the spacer to maintain a ~~the~~ profile height.

16. (Currently amended) The implant of claim 14 wherein the ~~spreading device~~ slotted sphere is rotatably mounted on the threaded ~~engages a~~ screw ~~extending from the hinge between the first and second portion of the spacer~~ to maintain a ~~the~~ profile height.

17-20. (Canceled)

21. (Previously presented) An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a wing extending from the shaft and adapted to be placed adjacent a first and a second spinous process;

a tissue expander extending from the distal end of the shaft;

said body including a spacer that is rotatably mounted to the shaft, the spacer having a first portion and a second portion; and

a mechanism that is mounted to the spacer and that can adjust the spacing between the first and second portions of the spacer.

22. (Original) The implant of claim 21 wherein the spacer is elliptical in shape with the first portion and the second portion divided about a major axis of the elliptical shaped spacer.

23. (Original) The implant of claim 21 wherein the first portion and the second portion of the spacer are connected by a hinge.

24. (Original) The implant of claim 21 wherein the mechanism of the implant further comprises a slotted sphere.

25. (Original) The implant of claim 24 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

26. (Original) The implant of claim 24 wherein the slotted sphere engages a screw extending from between the first and second portion of the spacer to maintain the profile height.

27. (Original) The implant of claim 21 wherein the mechanism of the implant further comprises a jack.

28. (Original) The implant of claim 27 wherein the jack engages the first and second portion of the spacer to maintain the profile height.

29. (Original) The implant of claim 27 where the said jack is adjustable to a greater profile and a lesser profile by turning a screw in one of a first direction and a second direction.

30-33. (Canceled)

34. (Currently amended) A implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a tissue expander extending from the distal end of the shaft; ~~and~~

a spacer ~~that is~~ rotatably mounted on the shaft, the spacer having a first portion and a second portion, wherein the spacer has an adjustable profile;

a threaded screw rotatably mounted on the shaft between the first portion and second portion; and

a slotted sphere rotatably mounted on the threaded screw.

35. (Currently amended) The implant of claim 34 wherein:

~~the profile of the spacer is adjustable by a slotted sphere; and~~

the slotted sphere engages the first and second portion of the spacer to maintain a ~~the~~ profile height.

36. (Currently amended) The implant of claim 35 wherein the slotted sphere engages ~~a~~ the threaded screw to maintain a ~~the~~ profile height.

37-39 (Canceled)

40. (Currently amended) An implant to be placed between spinous processes comprising:

a body having a shaft extending therefrom; and

a spacer that is rotatably mounted on the shaft,[[;]] wherein the spacer has a ~~hinged body having~~ a first portion and a second portion;

a threaded screw rotatably mounted on the shaft between the first portion and second portion; and

a device rotatably mounted on the threaded screw to adjust a space between the first portion and the second portion;

wherein the device of the implant further comprises a slotted sphere.

41. (Original) The implant of claim 40 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

42-45 (Canceled)

46. (Currently amended) An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a spacer rotatably mounted on the shaft that is adapted to fit between spinous processes, the spacer including a first portion and a second portion ~~pivotably connected at a hinge~~; and

an actuatable spreading device including a threaded screw rotatably mounted on the shaft between the first and second portion, ~~arranged in a plane with the hinge;~~

wherein the spreading device is actuatable to adjust the height of the spacer in order to adjust the spacing between the spinous processes.

47. (Previously presented) The implant of claim 46, wherein the actuatable spreading device further includes a slotted sphere engaging the threaded screw.

48. (Currently amended) An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

a spacer rotatably mounted on the shaft that is adapted to fit between spinous processes, the spacer including a first portion and a second portion ~~pivotably connected at a hinge~~; and

an actuatable spreading device rotatably mounted on the shaft between the first and second portion, the spreading device including a threaded screw rotatably mounted on the shaft between the first portion and second portion and a slotted sphere rotatably mounted on the threaded screw ~~arranged in a plane with the hinge~~;

wherein the spreading device is actuatable to adjust the height of the spacer in order to adjust the spacing between the spinous processes.